

**ATTACHMENT I**  
**MBI USER AGREEMENT**

# MBI ADMINISTRATION

P.O. Box 21188, Eagan, MN 55121  
Phone. 651.683.6400 - Fax. 651.683.6045

April 15, 2002

## Re: MBI User Agreement & Service Account Registration

Dear Wireless Service Provider Representative:

The Federal Communications Commission (FCC) has ordered that wireless telecommunications providers support nationwide roaming, Wireless Number Portability (WNP) and Number Pooling by November 24, 2002. The first six-digits of the Mobile Identification Number (MIN), called the **MIN Block Identifier (MBI)**, have traditionally matched the NPA-NXX of the Mobile Directory Number (MDN). However, to meet the new FCC requirements, the Cellular Telecommunications and Internet Association (CTIA) and the wireless carriers, through an open forum, came to consensus on the need to separate the MIN from the MDN and to procure a neutral third-party to administer MBIs in this new environment.

The CTIA MBI Administrator Selection Committee, on behalf of the MIN-based wireless providers, has chosen *NCS Pearson* as the sole administrator of the MBI resource throughout the US serving areas. *NCS Pearson* is a global data management services and systems company. With many years of experience in providing database administration and program management to the international telecommunications industry, *NCS Pearson* is well suited for its new role as the neutral administrator of the MBI resource program.

If you are a MIN-based wireless provider, you will need to register your existing MBIs and obtain new MBIs through the MBI Administration team at *NCS Pearson*. Once you are registered, you will be set up to access and use the MBI Administration Web-based system, which will be available on May 15, 2002.

**In order to register, you must complete the enclosed documents, as required, and return them to MBI Administration before June 28, 2002, which is the cut-off date for registration.**

- **User Agreement:** It is important that you carefully read the information in the User Agreement and have it signed by an officer of your corporation.
- **MBI Service Account Registration (Form A):** Complete the requested information on this Registration form so that *NCS Pearson* can set up your Initial Service Account. Depending upon your preference, you may set up multiple Service Accounts at this time, or set them up later via the Web site system. Please note that a valid License ID is required for each Service Account.
- **MBI Sub-Account Request Worksheet:** This worksheet is optional. Depending upon how your company wants to set up administration of MBIs, you may find it necessary to create multiple Sub-Accounts under your Service Account(s). This worksheet allows you to define your Sub-Accounts. If you prefer, Sub-Accounts may be set up later via the Web site system.
- **MBI Service Account Registration Invoice:** The fees listed on the invoice are one-time-only fees that share the system development costs among the service providers participating in the MBI program. There are no recurring or monthly fees. Full payment must be received with your registration forms.

MBI Administration will process your MBI Service Account Registration within ten (10) business days upon full payment. A Service Account Confirmation Response (Form X) will be sent via e-mail to the Contact listed on each Service Account application. (If you do not provide an e-mail address, your confirmation will be sent via fax.)

The Contact person listed on each Service Account application will be set up in the system as an authorized user for your company. The Contact will be assigned a User ID and password to access the MBI Administration secure Web site. This information will be sent to each new Contact via e-mail.

Once you receive the User ID and password for your Service Account, you may add other Contacts, add additional Service Accounts and Sub-Accounts and start assigning MBIs through the online system, beginning May 15, 2002. Other pertinent dates related to MBI Administration are included in the table below:

Dates	Milestone
April 15, 2002	MBI Administrator mails User Agreement and Service Account registration (Form A) to service providers to set up Service Accounts.
April 15, 2002	Static Web site goes live.
April 15 – June 28, 2002	Wireless service providers submit MBI User Agreement and MBI Service Account Application (Form A) in order to guarantee inclusion in July 15 MIN assignment list.
May 15, 2002	Web site goes live for Forms A and A1.
May 15, - June 28, 2002	Wireless service providers may assign MBIs to their MBI Service Accounts using Form A1.
July 15, 2002	Web site goes live for all activity.
July 15, 2002	MBI Administrator will provide a list, by Service Account, of all MIN blocks assigned.
July 15 – August 19, 2002	Wireless service providers may submit change requests against MBIs using Form C.
July 15 – August 30, 2002	Wireless service providers confirm and pay for Grandfathered MBIs using Form F.
September 3, 2002	MBI Grandfathering Period ends. All Grandfathered MBIs should be entered into the MBI Administration database.

For more information on the overall process for registering and obtaining MBIs through the Administrator, please see the *MBI Assignment Guidelines and Procedures* document posted on the MBI Administration Web site.

If you have questions on any of the information in this package, please feel free to call the MBI Administration Help Desk at 651-683-6400 between 7AM and 7PM Central Time. You may also visit the MBI Administration Web site at <http://www.mbiadmin.com>, or e-mail us at [mbiadmin@ncs.com](mailto:mbiadmin@ncs.com).

We're looking forward to working with you to meet your MBI administration needs.

Sincerely,

*The MBI Administration Team*

Enclosures

## MBI Administration Account Registration

### Special Instructions on License IDs and OCNs

(Please read both sides of this sheet.)

#### License ID Requirement

Your initial Service Account Registration and subsequent Account Applications require that you are a licensed wireless service provider. This License ID is assigned by the FCC to an applicant/licensee at the time their Taxpayer Identification Number (TIN) is registered. The License ID is a 9-character identifier (an "L" followed by eight digits, e.g., L00012345).

MBI Administration uses this information for validation purposes only. Your accounts are not defined or controlled by MBI Administration in any way (i.e., geographically, regionally, etc.) based on the license ID you provide.

- You may enter multiple IDs under one Service Account; however, only one valid wireless License ID is required for each Service Account.
- License IDs can not be duplicated across multiple Service Accounts.

#### Finding Your License ID

If you do not know your License ID, you may find it by visiting the FCC Universal Licensing System Web page.

- ❖ Go to the Web page at <http://wireless.fcc.gov/uls/>.
  - From the middle of the screen, you will see a "Search" indicator:
- ❖ Click the *Licenses* button.
  - You will be brought to the "License Search" page.
- ❖ Click the *Continue* button.
  - You will be brought to the "License Search - General" page.
- ❖ Enter your Licensee Name or Call Sign and click the *Search* button at the bottom of the page.
  - You will be brought to a list that meets your search criteria.
- ❖ Click on any *Call Sign*.
  - You will be brought to a page that lists license and licensee information.
- ❖ Under **License Information**, verify that your license has not expired.
- ❖ Scroll down to the **Licensee ID** box under the **Licensee Information Section**.
  - The number in this field is the License ID required by MBI Administration to validate your account.

(over)

## MBI Administration Account Registration

### Special Instructions on License IDs and OCNs

(Please read both sides of this sheet.)

#### Operating Company Codes (OCNs)

OCNs will be used during a limited time (MBI Grandfathering Period) to reserve and verify that you are the Code Holder of NPA-NXXs that correspond to your MBIs.

- ◆ OCNs are NOT required in order to create an account.
- ◆ OCNs may be stored at the Service Account and/or Sub-Account levels.
- ◆ OCNs may NOT be duplicated across multiple Service Accounts or Sub-Accounts.

#### How OCNs Are Used By MBI Administration

The OCNs stored within an account will be used in two ways:

1. **MBI Requests** – When requesting a specific MBI for Grandfathering, it is required that the associated OCN is stored in one of your Company's accounts. Because this requirement is only to verify ownership of the MBI, it does not matter which account the OCN is stored in as long as it is within your Company.
  - ✓ Exceptions are made for MBIs for which the Company is not the Code Holder.
2. **Pre-Population** – There will be a system-wide pre-population process that will run at the end of June 2002. This process will use the OCNs stored in company accounts to identify corresponding MBIs in the industry TPM file. Those MBIs then will be pulled into the account in which the OCN resides. Participation in the pre-population process is recommended.
  - ✓ You may choose to opt-out of the pre-population process for a specified Service Account and its Sub-Accounts.
  - ✓ In a separate process, after pre-population, you may move MBIs from one account to another without regard to their OCN association.

# MBI/AAS USER AGREEMENT

This Min Block Identifier Assignment And Administration System ("MBI/AAS") User Agreement ("Agreement") is made and entered into as of \_\_\_\_\_, 2002 ("Effective Date") by and between \_\_\_\_\_ ("User") having offices at \_\_\_\_\_ and \_\_\_\_\_, \_\_\_\_\_, NCS Pearson, Inc. ("Contractor"), a Minnesota corporation, having offices at 11000 Prairie Lakes Drive, Eden Prairie, Minnesota 55344-3857. (Contractor and User will collectively be referred to as "the Parties")

## BACKGROUND

Contractor has entered into the Master Services Agreement (as defined below) ("MSA") with MBI Oversight LLC, a Delaware limited liability company ("Contracting Entity") to provide mobile identification number block identifier assignment and administration in the Service Area (as defined in the MSA.) The User wishes to receive the Services (as defined below) of Contractor in the Service Area; and Contractor is willing to provide the Services to User and desires to do so for the compensation and in accordance with the terms and conditions herein and in the MSA. For and in consideration of the premises and the mutual promises and covenants contained herein, it is, therefore, agreed as follows:

1. Incorporation of MSA, MBI Assignment Guidelines and Procedures and the Customer Requirements Document. The Parties acknowledge and agree that, to the extent such terms and conditions apply to Users, this Agreement will be subject to all of the terms and conditions of the Master Services for MIN Block Identifier Assignment and Administration Agreement dated January 17, 2002, between Contractor and Contracting Entity, including all Exhibits, appendices, attachments and other documents included in the definition of "Agreement" thereunder, as the same may be amended from time to time (the "MSA"). Except with respect to Section 15 of this Agreement, and otherwise only to the extent that such term or condition of the MSA expressly pertains to User, if any term or condition of this Agreement is in conflict with a term or condition of the MSA, the term or condition of the MSA shall govern. The Parties further acknowledge and agree that, except where such conflicts with the terms and conditions of the MSA, the Services shall be provided in accordance with, and the Parties shall comply with the MBI Assignment Guidelines and Procedures version 1.15, dated January 19, 2001, as subsequently amended (the "Guidelines") and the Customer Requirements Document, dated December 20, 2001, as subsequently amended (the "CRD"). A copy of the foregoing documents, including the MSA will be provided to User at its request. User hereby agrees to be bound by any amendments to the MSA that affect this Agreement and to execute any amendments necessary to this Agreement in order to cause it to conform to the MSA, as amended.
2. Term. This Agreement shall commence on the Effective Date and shall expire coincident with the expiration of the MSA (giving effect to any and all renewal(s) or extensions of the MSA), unless terminated earlier pursuant to Section 14 hereof.
3. Fees And Payment Terms. The transactional charges for the Services are set forth in the Price Plan, Attachment B of this Agreement. User acknowledges and agrees that the Price Plan is subject to change upon the agreement of the Contracting Entity and the Contractor without prior advance notice to User hereunder, and User agrees to be bound thereby. User agrees to pay Contractor in advance of Services being rendered for the Services it receives hereunder, and agrees to pay Contractor all other amounts for which it is appropriately invoiced by Contractor pursuant to this Agreement or the MSA. Payments of invoiced amounts will be due and payable thirty days after the date of invoice.
4. Representations and Warranties of Contractor. Contractor represents and warrants to User that it shall perform the Services in a diligent and workmanlike manner and that if any of the Services provided to

User hereunder is inaccurate or not in accordance with the MSA, User, subject to the superceding rights of the Contracting Entity set forth in the MSA, will, in accordance with the MSA, be entitled to a refund of all or part of the transaction fees paid by User hereunder related to failure by Contractor.

5. Representations and Warranties of User. User represents and warrants that:

5.1. All of the information provided by User in its Service Account Registrations, Grandfathering Registration and Application for Services was true and correct as of the date initially provided to Contractor, and shall remain true and correct in all material respects throughout the term of this Agreement. User will immediately notify Contractor in writing of any changes that need to be made to the information provided to Contractor in order to maintain the truth and accuracy of such information.

5.2. To the best of its knowledge, the User Data provided to Contractor by User will not contain, either now or in the future, any malicious code, program, or other internal component (e.g. software virus, software worm, software time bomb, Trojan Horse), which could damage, destroy, or alter software or hardware of Contractor, or which could, in any manner, reveal, damage, destroy, or alter any data or other information accessed through or processed by the MBI/AAS Software in any manner or which could adversely affect the operation of a computer or its memory by Contractor. User shall immediately advise Contractor, in writing, upon reasonable suspicion or actual knowledge that the MBI/AAS Software may result in the harm described above.

5.3. It is a MIN based wireless service provider, and has a valid wireless license. User will remain a wireless service provider and retain a valid wireless license throughout the term of this Agreement.

6. Provision of MBI/AAS Services. Throughout the term of this Agreement, following acceptance of User's application for MBI/AAS services (attached hereto as Attachment A) and payment by User of all applicable fees, Contractor shall provide MBI/AAS Services (as such term is defined in the MSA) to User hereunder in accordance with its obligations under the MSA, including, without limitation, the following obligations generally described (with Article/Section references below in this Section 6 referring to Articles/Sections in the MSA): (a) to provide Services in accordance with the Service Level Requirements, as provided under Section 6.3; (b) to maintain safety and physical security on the Website and the site at which the MBI/AAS Website server(s) are located and to report events of Unauthorized Access of which it is aware, as provided under Section 6.5; (c) to provide User manuals for User personnel, as provided in Section 6.7; (d) to provide high quality service to User as provided in Section 6.11; (e) to provide a Help Desk Service to: (1) enable User to obtain answers to routine questions, resolve problems and report defects or failures in the MBI/AAS (as provided in Section 9.1) and (2) use its best efforts to correct problems caused by the MBI/AAS (as provided in Section 9.2); (f) to inform User of the database status and Service Availability after employing disaster recovery procedures (as provided in Section 11.4); (g) to maintain the confidentiality of User Data, as provided in Article 14.0; (h) to comply with Section 9 of the MBI Guidelines.

7. Security, Unauthorized Access. User shall protect and limit access to any User ID and passwords provided to User to its employees who have a need for such access for uses permitted under this Agreement, and shall be responsible for all usage of its codes or any User Data. All employees and contractors of User who are given access to the MBI/AAS system will use the features and functions of the MBI/AAS system in accordance with the MBI Guidelines, the CRD, and other rules issued by Contractor. Contractor reserves the right to terminate a User and/or its agents access to the MBI/AAS system if it is not used as required by this Agreement.

8. User Provided Data. User shall provide all User Data to Contractor in accordance with the CRD. User agrees that Contractor will not be responsible or liable for any loss, damage or inconvenience suffered by User or by any Third Party arising out of Contractor's inability to perform the Services due to a failure of User to provide all of the necessary User Data when required or by reason of any deficiencies

in the User Data furnished to Contractor by User. All User Data shall remain the property of the User furnishing it, as specified in Article 14.0 of the MSA. User shall comply with the MBI Guidelines, and in a particular, with Section 8 of the MBI Guidelines.

9. Facilities Expenses; Contact with End-User Customers. User shall provide, and shall pay all expenses and costs of the procurement and provision of, all hardware, system software, telecommunications services, facilities and supplies required to access the MBI/AAS from such User's facilities up to the point of presence on the Website, including without limitation, all common carrier charges and all costs of telephone and terminal equipment. User shall have the sole obligation to interact with its end-user customers in all matters pertaining to its provision of services to such customers, including the placing and handling of service orders, service installation, operation and termination, dispute handling and resolution, and billing and collection matters.
10. Compliance with Laws. User shall comply, at its expense, with all applicable laws relating to the provision of MBI assignment, if any, the receipt of Services or performance of its obligations hereunder, and all applicable rules, regulations and rules of the FCC and the State Commission having appropriate jurisdiction over User or its business.
11. User Enhancements. User may request services from Contractor which are related to Services provided by Contractor but lie outside the scope of MBI/AAS Services required by the MSA Agreement, including modifications to the MBI/AAS (User Enhancements); provided, however, that User hereby agrees that any such requests of Contractor shall be made through Contracting Entity's Project Executive.
12. Audit of User's Use of MBIs. Upon the recommendation by the Contractor to and approval of the Contracting Entity, the Contractor may, at User's expense, conduct an audit (the "Audit") of the User's use of MBIs assigned to User by Contractor. The purpose for and manner in which the Audit will be conducted is as set forth in Annex F to the Guidelines.
13. Confidential Information.
  - 13.1. "Confidential Information" means all information, materials and ideas that relate to the subject matter of this Agreement or the performance by the disclosing party of its obligations hereunder or pursuant to the MSA, which is disclosed or otherwise provided by either the Contractor or the User (the "Disclosing Party") (in writing, electronically, orally, or in any other form, tangible or intangible, except that with respect to oral or intangible disclosures, the substance of which such disclosure must be memorialized in writing and delivered to the receiving party within fourteen (14) days of the initial disclosure) to the Contractor or the User (the "Receiving Party") and that is marked as "confidential" and/or "proprietary", including, without limitation, User Data, Software, proprietary aspects of the MBI/AAS and financial information of the Contractor or of the Users. User Data shall be the property of the User furnishing such data.
  - 13.2. The Disclosing Party shall have the right to correct any inadvertent failure to designate information as "confidential" and/or "proprietary" by written notification to the Receiving Party. The Receiving Party shall, from that time forward treat such information as Confidential Information under this Agreement.
  - 13.3. During the course of this Agreement, the Receiving Party may receive or have access to Confidential Information of a Disclosing Party. The Receiving Party shall not, without first obtaining the Disclosing Party's written consent, disclose to any Third Party, commercially exploit or use for any purpose other than the performance of its obligations under this Agreement any Confidential Information, or information or materials developed by the Receiving Party based on Confidential Information, that it has received or to which it has had access. The Receiving Party shall use no less than the same means it uses to protect its similar confidential and proprietary information, but in any event not less than reasonable means, to prevent the



disclosure and to protect the confidentiality of the Confidential Information of the Disclosing Party. Notwithstanding the foregoing, Contractor acknowledges that in performing its obligations to provide Services hereunder it shall have access to Confidential Information of the User which provide such User a competitive advantage over other Service Providers in the marketplace and that any disclosure of a User's Confidential Information to another Service Provider could cause irreparable harm. Therefore, notwithstanding the standard of care set forth above, Contractor hereby agrees that it will not intentionally, recklessly nor negligently disclose the User's Confidential Information to another Service Provider or third party.

- 13.4. Any duty to protect confidential information under this Article shall expire five (5) years after the scheduled termination or expiration of this Agreement, except that: a) information relating to the User's customer information shall remain confidential forever; and b) Contractor's technical information, processes, software, and the MBI/AAS Software shall remain confidential forever.
- 13.5. Confidential Information shall not include information: (a) generally available to, or known to, or which becomes known by, the public through no wrongful act of the Receiving Party; (b) lawfully known by the Receiving Party prior to receipt from the Disclosing Party; (c) lawfully disclosed by a Third Party to the Receiving Party; (d) independently developed by the Receiving Party without the use of information disclosed by the Disclosing Party; (e) disclosed to a Third Party by the Disclosing Party without restriction; and (f) lawfully required to be disclosed to any governmental agency or which is otherwise required to be disclosed by law, provided that before making such disclosure the Receiving Party shall give the Disclosing Party an adequate opportunity to object to such disclosure or take action to assure confidential handling of such information.
- 13.6. Upon the request of the Disclosing Party, which may be made at any time, the Receiving Party shall return (with respect to User Data, in the form and on the media then in use) to the Disclosing Party, or, at the option of the Disclosing Party, shall destroy or permanently erase, the Confidential Information provided by the Disclosing Party and all copies thereof (in written, electronic or other form), and shall destroy or permanently erase any information and materials developed by it based on the Disclosing Party's Confidential Information. Notwithstanding anything to the contrary above, User Data or Confidential Information that is necessary to provide or receive Services and operate the MBI/AAS shall not be returned or destroyed. Upon the request of the Disclosing Party, the Receiving Party shall certify that the destruction or permanent erasure of Confidential Information provided for herein has occurred.
- 13.7. The Parties each acknowledge that the unauthorized disclosure or use by it of the other's Confidential Information may cause irreparable harm and significant injury, the amount of which may be extremely difficult to estimate. If the Receiving Party fails to abide by its obligations under this Article, the Disclosing Party may be entitled to seek immediate injunctive relief, in addition to any other rights and remedies available to it at law or in equity.
- 13.8. In the event of any unauthorized disclosure or loss of, or inability to account for, Confidential Information of the Disclosing Party, the Receiving Party will notify the Disclosing Party immediately.
14. **Termination.** In addition to automatic termination because of termination or expiration of the MSA, this Agreement shall terminate upon written notice of termination by the non-breaching party to the breaching party following a breach by a party of its representations and warranties hereunder or a failure by a party to perform any of its material obligations hereunder, and where such breach or failure is continuing at the time of the termination and has continued for a period of at least thirty (30) days following receipt of written notice of such failure or breach from the non-breaching party.
- 14.1. Subject to Section 13.6 hereof, upon termination and regardless of any dispute between the Parties, all property, equipment, data, documents, or other material of User, excluding User Data necessary in the provision and operation of MBI/AAS Services, pertaining to this Agreement in

the possession of Contractor, its employees, agents or subcontractors, shall be returned to User in accordance with the MSA; provided, that a Party may retain copies of the other Party's materials as necessary to assist it in resolving or addressing a dispute with the other Party or with the Contracting Entity.

- 14.2. The termination rights provided to the Parties under this Article 14 are not intended to constitute an election of remedies, and the Party terminating this Agreement is entitled to any additional rights and remedies available to it at law or in equity, subject to the limitations and exclusions in this Agreement and the MSA.
15. Limitation Of Liability. Contractor shall not be liable for any claims by User that the MSA, its amendment or termination, or its administration or existence adversely affect or cause damage to User, nor shall Contractor be liable for delays or failures in Service caused by the failure of the Contracting Entity, or the MBI Oversight Council to fulfill their obligations. **Each Party's liability for damages arising out of its breach of its obligations under this Agreement shall be limited to direct damages, and neither Party shall have any liability whatsoever for consequential, incidental, special, punitive or indirect damages (including, without limitation, lost profits) of the other Party or any third party, even if a Party has been advised of the possibility of such damages;** provided, (i) the Parties agree that the direct damages of the nature listed in Section 18.1(a), (b), and (d) and the restrictions on liability found in 18.1 of the MSA shall apply to this Agreement; and (ii) the Parties agree that the limitations and exculpation of liability set forth in this Section 15 (except for the limitation as to punitive damages) are not applicable to any breach of a Party's confidentiality obligations hereunder. Notwithstanding anything to the contrary, Contractor's total liability to User, for all claims, no matter how made (except for breach of Contractor's confidentiality obligations) shall in the aggregate not exceed the amount paid to Contractor by User for Services in the twelve months immediately preceding the incident giving rise to the damages.
16. Assignment by User. User may not assign or otherwise transfer all or a portion of its rights or obligations under this Agreement without the prior written consent of Contractor, which consent shall not be unreasonably withheld or delayed, except that User may, without the consent of Contractor, make such an assignment or transfer to an affiliate or subsidiary of User or a Third Party; provided that such affiliate, subsidiary or Third Party is a Service Provider or User that meets the criteria in the MSA and User shall remain the ultimate obligor with respect to any assigned or transferred obligations; provided further, that such assignment is not prohibited by law or rule, regulation or order of the FCC or other regulatory agencies having jurisdiction over the Services. Except as otherwise expressly provided herein, this Agreement shall inure to the benefit of and shall bind the heirs, executors, personal representatives, administrators, successors and assigns of Contractor and User.
17. NO CONTRACTING ENTITY LIABILITY. USER ACKNOWLEDGES AND AGREES THAT CONTRACTING ENTITY IS ENTITLED, IN ITS SOLE AND COMPLETE DISCRETION, TO EXERCISE OVERSIGHT OF CONTRACTOR'S COMPLIANCE WITH THE MSA, TO NEGOTIATE AMENDMENTS TO THE MSA, TO RETAIN ANY LIQUIDATED DAMAGES PAID BY CONTRACTOR PURSUANT TO ARTICLE 7.0 OF THE MSA AND TO TERMINATE THE MSA IN ACCORDANCE WITH ITS TERMS. NOTWITHSTANDING THE FOREGOING, IN EACH INSTANCE, USER AGREES THAT IT HAS NO CAUSE OF ACTION OF ANY TYPE OR CHARACTER AGAINST CONTRACTING ENTITY NOR AGAINST ANY OF CONTRACTING ENTITY'S MEMBERS IN THEIR CAPACITY AS MEMBERS AND THAT IT SHALL MAKE NO CLAIM, UNDER ANY THEORY OF LIABILITY INCLUDING, WITHOUT LIMITATION, ANY CONTRACT CLAIM, CLAIM FOR ANY CAUSE WHATSOEVER INCLUDING, WITHOUT LIMITATION, INTERFERENCE WITH CONTRACTUAL RELATIONSHIPS OR ANY RELATED CAUSE OF ACTION AGAINST CONTRACTING ENTITY OR AGAINST ANY OF CONTRACTING ENTITY'S MEMBERS IN THEIR CAPACITY AS MEMBERS OR FOR ITS ADMINISTRATION, RENEGOTIATION OR TERMINATION OF THE MSA.
18. General. (a) Any notice or demand which under the terms of this Agreement or under any statute must or may be given or made by Contractor or the User shall be in writing and shall be given or made by,

confirmed facsimile, or similar communication or by certified or registered mail addressed to the Parties at the addresses first set forth above, or to such other address as a Party may designate in writing from time to time, addressed to the attention of the MBI administrator. (b) Nothing contained in this Agreement shall be deemed or construed as creating a joint venture or partnership between Contractor and the User. Neither Party is by virtue of this Agreement authorized as an agent, employee or legal representative of the other. (c) The Section headings contained herein are for purposes of convenience only and shall not be deemed to constitute a part of this Agreement or to affect the meaning or interpretation of this Agreement in any way. (d) The Parties agree that Contracting Entity shall be a third party beneficiary under Article/Sections 7, 13, 14, and 17 of this Agreement. Contracting Entity shall have the right to enforce such provisions in its own name. (e) If any provision of this Agreement shall be held invalid or unenforceable, such provision shall be deemed deleted from the Agreement and replaced by a valid and enforceable provision which so far as possible achieves the Parties' intent in agreeing to the original provision. The remaining provisions of the Agreement shall continue in full force and effect. (f) All obligations that by their nature survive the expiration or termination of this Agreement shall remain in effect after its expiration or termination until such obligations expire according to their respective terms. (g) Any failure or delay by Contractor or User in the performance of its obligations under this Agreement shall not be a ground for termination hereunder to the extent such failure or delay was caused, directly or indirectly, by forces or actions not reasonably within the party's control, such as acts of God. (h) This Agreement, including all matters relating to the validity, construction, performance and enforcement thereof, shall be governed by the laws of the State of Delaware without giving reference to its principles of conflicts of law. (i) The Party substantially prevailing in any legal action between the Parties concerning this Agreement shall receive reimbursement of its reasonable attorney's fees and court costs from the other Party. (j) This Agreement, including all appendices, attachments, exhibits or documents made a part hereof or incorporated herein by reference including any and all amendments to this Agreement, sets forth the entire understanding between the Parties with regard to the subject matter hereof and supersedes any prior or contemporaneous agreement, discussions, negotiations or representations between the Parties, whether written or oral, with respect thereto. This Agreement may not be amended except by the mutual written agreement of the Parties and with the written consent of Contracting Entity. This Agreement shall be of no force or effect until it has been signed by a duly authorized representative of both Parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives effective as of the Effective Date.

[USER]

NCS PEARSON, INC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

# MBI Service Account Registration: Form A

One of these forms should be filled out for each Service Account that needs to be defined for your company. Please make as many copies of this form as necessary.

## Company

Company

## Contact

Each new Service Account requires the assignment of an Initial Contact. The person identified in this section will be set up with an authorized User ID with access into this Service Account. This new Contact may assign additional users to this Service Account through the MBI Administration Web site at <http://www.mbiadmin.com>.

☐ The first Contact created will become the primary contact for this company, check here if this should be the first Contact to be setup.

Contact's First Name

Last Name

Contact's Address

Contact's Address

City

State

Zip

Contact's Phone Number

Fax

Email Address

## Service Account

Service Account Name

License ID

☐ Note: If you have more than 5 OCNs, please attach the list on a separate sheet of paper and check here.

OCN(s)

OCNs are not required to create an account. However, in order to Grandfather an MBI, the corresponding OCN is required to be in one of the company's accounts. Exceptions are made for split MBI's.

For MBI grandfathering purposes there will be a system-wide pre-population process that will run at the end of June 2002. This process will use the OCNs stored in company accounts to identify corresponding MBIs in the industry TPM file. Those MBIs will then be pulled into the account in which the OCN resides. Participation in this process is recommended.

☐ Check here if you wish to opt out of the pre-population process for this Service Account and its Sub-Accounts

I certify that the information provided on this form is accurate.

Authorized Company  
Representative

Authorized Signature

Date

## MBI Sub-Account Request Worksheet

The MBI Service Account Registration process allows you to subdivide each Service Account by category, such as geographic location, service, or function. Each Sub-Account costs an additional \$85.00. Naming your Sub-Accounts is optional. Use this worksheet to define your Sub-Accounts. If you are requesting more than 6 Sub-Accounts, please make copies of this form and attach as many as you need to the Service Account Registration Form (Form A).

Note: If you are defining Sub-Accounts for more than one Service Account, photocopy this page and fill out one Sub-Account Request Worksheet for each Service Account.

### Contact Information

Company

Service Account Name

License ID

Number of Sub-Accounts for this Service Account

### Sub-Accounts

Sub-Account Name 1 (optional)

OCN(s)

Sub-Account Name 2 (optional)

OCN(s)

Sub-Account Name 3 (optional)

OCN(s)

Sub-Account Name 4 (optional)

OCN(s)

Sub-Account Name 5 (optional)

OCN(s)

Sub-Account Name 6 (optional)

OCN(s)

## ATTACHMENT B

### PRICE PLAN

NCS' cost based pricing covers the cost of MBI Web development, supporting MBI administrative systems and professional staff over a 5 year award.

Some of the major cost components include:

- Web and system development and testing.
- Acceptance plan and acceptance testing for web site and database.
- Secured system environment and work area.
- Acquisition of industry data to create the initial database.
- System/data backup process and off site storage.
- Web hosting and administration.
- Professional staff.
- Administration of MBI and service account applications.
- Monitoring of NXX assignments.
- Introduction and confirmation mailings
- Mailing materials and user manuals.

#### Pricing Assumptions:

4,000 Service Accounts

20,000 – 25,000 Grandfathered MBIs

1,000 new MBI applications per month

The price model developed for MBI administration is a series of non-recurring/non-refundable transactional charges as outlined below:

<b>MBI Service Accounts</b>			
First MBI Service Account Registration	\$130.00		
Additional MBI Service Accounts & sub-accounts	\$85.00 per account		
Service Account User name change or merger	\$130.00 per Application		
<b>MBI Grandfathering</b>			
Grandfathered NPA/NXX (MBI Code)	\$21.00 per MBI		
<b>Data Collection Options</b>			
	Option	Explanation	Price
1.	Service Provider enters MBIs in web form A1 & C	Service Providers use Web A1 & C forms for editing grandfathered MBI assignments	No additional charge
2.	NCS Pearson key enters MBIs from form A1& C	Service Providers submit A1 & C forms by mail or fax to NCS for key entry of MBIs to designated service accounts	\$5.00 per service account received, plus \$.55 per MBI
3.	Service Provider submits MBIs in electronic format	Service Provider submits MBIs in diskette/CD ROM agreed format	\$50.00 per service account

<b>New MBI Applications</b>	
New MBI Applications after Grandfather Date	\$50.00 <sup>1</sup> per MBI
<ul style="list-style-type: none"> <li>▪ Surcharge for processing manual (fax or mail) applications</li> <li>▪ Note: See tiered pricing for annual price adjustment below.</li> </ul>	\$ 5.00 <sup>2</sup> per manual paper application
<b>Other</b>	
Returned checks or credit card payment problems may result in reclamation of MBI or closure of MBI service account(s). If there are any charges or fees incurred by MBI Administration associated with uncollectables, these costs will be charged back to the original carrier or user account.	Fees incurred from financial institutions related to returned checks or credit card uncollectables.
Audits – On Assignee site	TBD <sup>3</sup>
Note: All prices are non-recurring and non-refundable and exclude applicable sales tax.	

Tiered pricing for annual price adjustment

➤ 1,250 average per month	\$40.00 per MBI
➤ 750 – 1,249 average per month	\$50.00 per MBI
➤ 500 – 749 average per month	\$60.00 per MBI
➤ 350 – 499 average per month	\$75.00 per MBI
<350 per month	\$90.00 per MBI

<sup>1</sup> Price based on an average of 1,000 MBI requests per month, price will be adjusted annually based on previous years volume.

<sup>2</sup> Surcharge for manual paper applications, not applicable during disaster recovery administration for those users who normally use Web forms.

<sup>3</sup> Due to the variance in audit requirements (size of Assignee and the nature of the audit), NCS will provide a quote for costs associated per requested audit.

## **MBI Service Account Registration: Invoice**

### **Payment**

Company

Primary Contact Name

Contact Phone Number

Total Quantity	Item	Cost Each	Amount
1	Initial Service Account	\$130.00	\$130.00
	Additional Service Accounts and Sub-Accounts	\$ 85.00	
Total			

Payment of the non-refundable/non-recurring application is by:

☐ Enclosed Check

Check Number

Please make checks payable to  
NCS Pearson

☐ Mastercard

☐ Visa

Credit Card Number

Expiration Date

Cardholder's First Name

Last Name

Cardholder's Address

Cardholder's Address

City

State

Zip

Signature